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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,127

08/27/2003

Edward N. Barthell

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EXAMINER

RANGREJ, SHEETAL

ART UNIT

PAPER NUMBER

3686

NOTIFICATION DATE

DELIVERY MODE

09/28/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/649,127	<b>Applicant(s)</b> BARTHELL, EDWARD N.	
	<b>Examiner</b> SHEETAL R. RANGREJ	<b>Art Unit</b> 3686	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 1-23 and 27 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-23 and 27 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Prosecution History Summary*

1. Claims 24-26 are withdrawn.
2. Claims 1-23 are pending.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 13-20, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by

Mault (U.S. Publication No. 2003/0129578).

4. As per claim 1, Mault teaches the method of detecting a bio-emergency:
  - a. Receiving patient health information at a plurality of health care facilities regarding each of a plurality of patients (**Mault: para. 20; para. 24**),
  - b. The patient health information being received at each health care facility via a user interface executed on at least one computer (**Mault: para. 24**);
  - c. Upon receiving the patient health information regarding each of the plurality of patients, automatically transmitting the patient health information from the computer at the health care facility to a monitoring computer within a bio-surveillance network (**Mault: para. 30**);

- d. Upon receiving the patient health information at the monitoring computer,  
compiling the patient health information to create compiled health data (**Mault: para. 37-39**); and
  - e. Analyzing the health data compiled within the bio-surveillance network to  
identify whether a public health threat exists (**Mault: para. 40**).
- 5. As per claim 13, the method of claim 1 is as described above. Mault further teaches wherein the patient health information includes triage information (**Mault: para. 22-23**).
  - 6. As per claim 14, the method of claim 13 is as described above. Mault further teaches wherein the triage information includes symptom information (**Mault: para. 22-23**).
  - 7. As per claim 15, the method of claim 14 is as described above. Mault further teaches the triage information includes a primary complaint (**Mault: para. 22-23**).
  - 8. As per claim 16, the method of claim 15 is as described above. Mault further teaches the triage information includes a secondary complaint (**Mault: para. 22-23**).
  - 9. As per claim 17, the method of claim 14 is as described above. Mault further teaches categorizing the symptom information (**Mault: para. 21-23; para. 26**).
  - 10. As per claim 18, the method of claim 1 is as described above. Mault further teaches categorizing step includes generating syndromic data (**Mault: para. 21-23; para. 26**).
  - 11. As per claim 19, the method of claim 1 is as described above. Mault further teaches said receiving step is performed using proprietary software (**Mault: para. 26; para. 37**).
  - 12. As per claim 20, the method of claim 1 is as described above. Mault further teaches wherein said transmitting step is implemented via the Internet (**Mault: para. 35**).

13. As per claim 27, the method of claim 1 is as described above. Mault further teaches wherein the monitoring computer continuously compiles patient health information as it is received and the bio-surveillance network continuously analyzes the compiled information to identify whether the public health thread exists (**Mault: para. 20-21**).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-12 and 21-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Mault (U.S. Publication No. 2003/0129578) in view of Sloane (U.S. Patent no. 5,911,132).

3. As per claim 2, the method of claim 1 is as described above. Mault does not explicitly teach wherein the bio-surveillance network includes at least one regional repository that communicates directly with at least one of the health care facilities.

Sloane, however, teaches wherein the bio-surveillance network includes at least one regional repository that communicates directly with at least one of the health care facilities (**Sloane: col. 3, 17-30**).

One of ordinary skill in the art would have recognized that applying the known technique of Sloane would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the technique of Mault to the teachings of Sloane would have yielded predictable results because the level of ordinary skill in the art demonstrated by the

references applied shows the ability to incorporate such features into similar systems. Further, applying the technique of detecting bioterrorism acts to Sloane teaching surveillance within a region would have been recognized by those of ordinary skill in the art as resulting in an improved system that would provide a system that is reliable and structured to provide bio-surveillance.

4. As per claim 3, the method of claim 2 is as described above. Mault does not explicitly teach wherein the regional repository is a regional health department.

Sloane, however, teaches wherein the regional repository is a regional health department **(Sloane: col. 3, 17-30)**.

The motivation to combine the teachings is same as claim 2.

5. As per claim 4, the method of claim 2 is as described above. Mault does not explicitly teach wherein the at least one regional repository includes a plurality of regional repositories.

Sloane, however, teaches wherein the at least one regional repository includes a plurality of regional repositories **(Sloane: col. 3, 17-30)**.

The motivation to combine the teachings is same as claim 2.

6. As per claim 5, the method of claim 4 is as described above. Mault does not explicitly teach wherein said compiling step is performed at the regional repositories.

Sloane, however, teaches wherein said compiling step is performed at the regional repositories **(Sloane: col. 3, 17-40)**.

The motivation to combine the teachings is same as claim 2.

7. As per claim 6, the method of claim 5 is as described above. Mault does not explicitly teach communicating the compiled health data to at least one group including the regional repositories and a centralized recipient.

Sloane, however, teaches communicating the compiled health data to at least one group including the regional repositories and a centralized recipient (**Sloane: col. 3, 17-40**).

The motivation to combine the teachings is same as claim 2.

8. As per claim 7, the method of claim 5 is as described above. Mault does not explicitly teach the bio-surveillance network includes a centralized recipient that receives the compiled health care data from at least one of the regional repositories.

Sloane, however, teaches the bio-surveillance network includes a centralized recipient that receives the compiled health care data from at least one of the regional repositories (**Sloane: col. 3, 17-30**).

The motivation to combine the teachings is same as claim 2.

9. As per claim 8, the method of claim 7 is as described above. Mault further teaches wherein the step of analyzing compiled health data comprises comparing the compiled health data to a threshold (**Mault: para. 41**).

10. As per claim 9, the method of claim 8 is as described above. Mault further teaches generating a warning signal in response to said comparing step indicating the public health threat exists (**Mault: para. 33**).

11. As per claim 10, the method of claim 9 is as described above. Mault further teaches communicating the warning signal to at least one of a group including the health care facilities (**Mault: para. 33**).

12. As per claim 11, the method of claim 10 is as described above. Mault further teaches communicating the warning signal is performed automatically in response to said comparing step **(Mault: para. 33)**.

13. As per claim 12, the method of claim 7 is as described above. Mault further teaches the centralized recipient is the Centers for Disease Control **(Mault: para. 40)**.

14. As per claim 21, Mault teaches a method of detecting a bio-emergency:

a. Receiving individual triage patient health information at a plurality of health care facilities regarding each of a plurality of patients **(Mault: para. 21-23)**;

b. On a patient-by-patient basis, electronically recording triage data for that patient in a computer of the associated health care facility, the triage data regarding each patient containing at least some of the received health information for that patient **(Mault: para. 21-23)**;

c. Analyzing the triage data and determining, based on the analysis, whether a possible bio-emergency exists **(Mault: para. 20)**.

Mault does not explicitly teach upon recording the triage data regarding each patient, transmitting at least a portion of the recorded triage data to a computer for one of a plurality of regional repositories automatically and in at least near real-time, the computer for each of the regional repositories receiving triage data from a computer for each of a plurality of the health care facilities; transmitting triage data to a computer for a centralized recipient from the computers for regional repositories automatically and in at least near real time with its receipt from the computers for the health care facilities; and communicating, from the centralized recipient, information regarding the possible bio-emergency to at least one or more of the



regional repositories, one or more health care facilities, and other institutions having an interest in responding to a possible bio-emergency.

Sloane, however, teaches upon recording the triage data regarding each patient, transmitting at least a portion of the recorded triage data to a computer for one of a plurality of regional repositories automatically and in at least near real-time, the computer for each of the regional repositories receiving triage data from a computer for each of a plurality of the health care facilities (**Sloane: col. 7, 42-56**); transmitting triage data to a computer for a centralized recipient from the computers for regional repositories automatically and in at least near real time with its receipt from the computers for the health care facilities (**Sloane: col. 7, 57-67**); and communicating, from the centralized recipient, information regarding the possible bio-emergency to at least one or more of the regional repositories, one or more health care facilities, and other institutions having an interest in responding to a possible bio-emergency (**Sloane: col. 8, 26-36**).

One of ordinary skill in the art would have recognized that applying the known technique of Sloane would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the technique of Mault to the teachings of Sloane would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such features into similar systems. Further, applying the technique of detecting bioterrorism acts to Sloane teaching surveillance within a region would have been recognized by those of ordinary skill in the art as resulting in an improved system that would provide a system that is reliable and structured to provide bio-surveillance.

15. As per claim 22, the method of claim 21 is as described above. Mault further teaches:

- a. Compiling the triage data regarding individual patients to generate volumetric triage data (**Mault: para. 22; para. 28-29**);
- b. Comparing the volumetric triage data with a predetermined threshold (**Mault: para. 41**); and transmitting a warning in response to said comparing step (**Mault: para. 33**).

16. As per claim 23, the method of claim 22 is as described above. Mault does not explicitly teach compiling step is performed by the computer for the regional repositories; and the comparing step is performed by the computer for the centralized recipient.

Sloane, however, teaches compiling step is performed by the computer for the regional repositories; and the comparing step is performed by the computer for the centralized recipient (**Sloane: col. 7, 42 to col. 8, 20**).

The motivation to combine the teachings is same as claim 21.

#### ***Response to Arguments***

17. Applicant's arguments with respect to claims 1-23 and 27 have been considered but are moot in view of the new ground(s) of rejection.

18. Applicant argues that Sloane fails to disclose “transmitting triage data to a computer for a centralized recipient from the computers for regional repositories automatically and in at least near real time.” Applicant argues that Sloane does not require subsequent transmission of the recoded data to another computer. Examiner disagrees with the Applicant. Examiner states that Sloane teaches having computers connected to a LoacaLab, schools, military base, or other institutions, which has communications to a CDC computer in real-time; therefore, Sloane

teaches “transmitting triage data to a computer for a centralized recipient from the computers for regional repositories automatically and in at least near real time.”

***Conclusion***

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEETAL R. RANGREJ whose telephone number is (571)270-1368. The examiner can normally be reached on 5/4/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SHEETAL R RANGREJ/  
Primary Examiner, Art Unit 3686